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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/710,337	07/01/2004	Joseph Araujo	CCT-P0001	4336
36067	7590	08/24/2007	EXAMINER	
DALINA LAW GROUP, P.C. 7910 IVANHOE AVE. #325 LA JOLLA, CA 92037			PERREIRA, MELISSA JEAN	
ART UNIT		PAPER NUMBER		
1618				
MAIL DATE		DELIVERY MODE		
08/24/2007		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/710,337	ARAUJO ET AL.
	Examiner Melissa Perreira	Art Unit 1618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 27 July 2007.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-12 and 27-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-12 and 27-36 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_

### **DETAILED ACTION**

Claims 1-12 and 27-36 are pending in the application. Claims 27-36 are newly added in the amendment filed 7/27/07. Any objections and/or rejections from previous office actions that have not been reiterated in this office action are obviated.

#### ***Information Disclosure Statement***

1. The information disclosure statement filed 7/11/04 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

#### ***Specification***

2. The disclosure is objected to because of the following informalities: A few examples of the informalities are: a.) there is a space missing between the words testing and The on page 26, line one of [0060] in the specification, b.). there is a space missing between the words procedure and During on page 27, line one of [0062] in the specification, c.) there is a space missing between the words Phase and The on page 28, line one of [0064] in the specification, etc. There are too many mistakes to list them all. Appropriate correction is required.

***New Rejections Necessitated by the Amendment******Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Rashotte et al. (Neuroscience & Biobehavioral Reviews 1984, 8, 231-237).

5. Rashotte et al. (Neuroscience & Biobehavioral Reviews 1984, 8, 231-237) teaches of the method of determining the palatability of food depending on a qualitative difference, such as flavors in concurrent operant schedules. The preference for a flavor is represented by an animal (dog) pressing a lever (stimulus) to obtain the preferred food (p231, paragraph 2). The initial test conditions were that an uncoated food was available on both levers to establish empirically that the animals responded equally to the lever schedules (p232, paragraph 2). The experiments begins with a lever that produces a coated food always being marked by a lighted rectangle (stimulus) above it while the lever that produces an uncoated food was always marked by a lighted circle (stimulus) above it (p232, paragraph 6). The tests were repeated until a two-part behavioral criterion was established (p232, paragraph 6) and the results of the experiments were recorded and analyzed for the choices of preferred and non-preferred food (i.e. coated and uncoated) (p232, paragraph 8-10). The results show that dogs will respond differentially in a concurrent schedule lever pressing test to obtain the food

containing the fat coating (flavor-enhancing) when the alternative is an uncoated portion of the same food and that highest coating-level produced the strongest preference. The rank preference for the different coating-levels was ultimately established (p233, paragraph 2).

6. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Laska et al. (*Learn Mem. 1998*, 5, 193-203).

7. Laska et al. (*Learn Mem. 1998*, 5, 193-203) teaches of the method of determining the palatability of a food by reliably learning to avoid the unpalatable food items within 10 trials (abstract). The conditioned avoidance learning paradigm utilized squirrel monkeys and marmosets to reliably form associations between visual or olfactory cues of a potential food and its palatability and to remember the associations over prolonged periods of time (abstract). In the experiments the animals were presented individually presented with pairs of cookies that only differed either in color or shape or odor, with one of the alternatives being unpalatable (p194, stimuli). For testing color as the discrimination stimulus, round cookies were stained red or yellow, for testing shape unstained cookies were prepared without baking aromas and were cut out round or triangle shape, etc. (p195, paragraph 1). The animal's behavioral reactions toward both the palatable and unpalatable food items were unequivocal and identical to those shown in response to the differently shaped cookies that were neither stained nor odorized (p195, paragraph 2). In assessing performance, correct choices consisted in the animals taking the palatable cookie as the first one into their mouths (p195, data).

analysis). The results show that the animals reliably form associations between visual or olfactory cues of a potential food, in the absence of gustatory cues, and its palatability. The animals also retain these associations in memory and to make use of them in new encounters with the same stimuli (p198, experiment 2) and remember the significance of the visual cues color and shape (p199, general discussion).

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-12 and 27-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Laska et al. (*Learn Mem. 1998, 5, 193-203*) in view of Tapp et al. (*Learn Mem. 2003, 10, 64-73*).

10. Laska et al. (*Learn Mem. 1998, 5, 193-203*) discloses the method of determining the palatability of a food by reliably learning to avoid the unpalatable food items within 10 trials (abstract). The conditioned avoidance learning paradigm utilized squirrel monkeys and marmosets to reliably form associations between visual or olfactory cues of a potential food and its palatability and to remember the associations over prolonged periods of time (abstract) as well as that stated above. Laska et al. does not disclose using reversal learning.

11. Tapp et al. (*Learn Mem.* 2003, 10, 64-73) discloses a discrimination learning procedure for the method of size and learning behavior in aging dogs. The method of discrimination learning involves using a food reward with a preferred stimulus and a non-preferred stimulus. The stimulus most frequently selected by the animal was deemed the preferred object. The dogs learn to displace a preferred stimulus when displacement of a non-preferred stimulus results in a food reward. The discrimination reversal learning procedure involved rewarding the dogs with food when the preferred stimulus was chosen while displacement of a non-preferred stimulus results in no food reward (p70, column 2). The responses to the stimuli and the choices of the dogs was recorded and analyzed for each trial (p71, paragraphs 2-5) and the dogs received 10 daily trials, 7 days per week.

12. At the time of the invention it would have been obvious to one ordinarily skilled in the art to utilize the discrimination reversal learning procedure of Tapp et al. for the method of determining the palatability of a food as disclosed by Laska et al. It is obvious since performance monitoring is a critical executive function and reversal learning tasks predominantly rely on executive functions. Discrimination reversals require subjects to inhibit prepotent responses to previously correct stimuli and to shift responses to a new stimulus-reward contingency within the same perceptual dimension [Tapp et al. (*Learn Mem.* 2003, 10, 64-73, see p64, paragraph 2)]. The discrimination reversals stimulus-reward trials allows for a true result in regards to the effects of palatability on the choice of the reward regardless of the stimulus (i.e preferred or non-preferred). Also, it is obvious to try multiple stimuli for the method of determining the

palatability of a food as disclosed by Laska et al. between the preference for a stimuli associated with a preferred food and the stimuli associated with a non-preferred food to reinforce the results for the discrimination learning procedure.

**Conclusion**

No claims are allowed at this time.

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

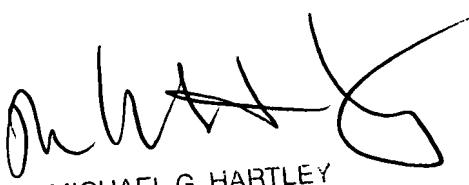
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melissa Perreira whose telephone number is 571-272-1354. The examiner can normally be reached on 9am-5pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Hartley can be reached on 571-272-0616. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MP  
August 15, 2007



MICHAEL G. HARTLEY  
SUPERVISORY PATENT EXAMINER